

Before the
Federal Communications Commission
Washington, D.C. 20554

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In the Matter of)

Amendment of the Commission's Rules to)
Establish Part 27, the Wireless)
Communications Services ("WCS"))

GN Docket No. 96-228

REPLY COMMENTS OF
SPRINGWICH CELLULAR LIMITED PARTNERSHIP, SNET CELLULAR, INC.,
AND SNET MOBILITY, INC.

Springwich Cellular Limited Partnership ("SCLP"), SNET Cellular, Inc. ("SCI") and SNET Mobility, Inc. (SCLP, SCI and SNET Mobility, Inc. are referred to herein collectively as "SNET Mobility")¹, by their attorney, submit their Reply Comments in the above-captioned proceeding.² Although SNET Mobility elected not to file initial Comments in response to the Notice, in light of the critical issues addressed in this proceeding, and SNET Mobility's support of or opposition to positions taken in the Comments that were filed by various parties, SNET Mobility urges the Commission to consider the following.

¹ SCLP and SCI hold Federal Communications Commission ("FCC" or "Commission") cellular radiotelephone systems in the states of Connecticut, Massachusetts and Rhode Island, and SNET Mobility, Inc. provides management services to SCLP and SCI.

² In the Matter of Amendment of the Commission's Rules to Establish Part 27, the Wireless Communications Service, Notice of Proposed Rule Making in GN Docket No. 96-228. FCC 96-441 (released November 12, 1996) ("Notice").

SUMMARY

SNET Mobility agrees with those parties who have filed comments in this proceeding urging the Commission, among other things, to (1) allocate the spectrum for Wireless Communications Services (“WCS”) on the basis of Basic Trading Areas (“BTAs”)³ or, in the alternative, on no larger a geographic basis than Major Trading Areas (“MTAs”)⁴ and in several spectrum blocks of either 5 MHz or 10 MHz;⁵ (2) place no eligibility-related restrictions on WCS licensees (other than foreign ownership restrictions) and permit maximum license and spectrum flexibility, including proposals for partitioning, aggregation and franchising;⁶ (3) apply the 45 MHz commercial mobile radio services (“CMRS”) spectrum cap⁷ to all WCS spectrum allocated for CMRS operational uses and generally safeguard the statutory principle of regulatory parity with respect to WCS licensing;⁸ and (4) avoid anti-competitive undermining of, and financial

³ See, for example, Cellular Telephone Industry Association (“CTIA”) Comments generally, as well as BellSouth Corporation (“BellSouth”) Comments at page 7; GTE Service Corporation (“GTE”) Comments at page 4; Pocket Communications (“Pocket”) Comments at page 3; Sprint Spectrum L.P. d/b/a Sprint PCS and Sprint Corporation (collectively “Sprint”) Comments at pages 5-7; and Omnipoint Corporation (“Omnipoint”) Comments at page 8.

⁴ See, for example, CTIA Comments generally, as well as Bell Atlantic NYNEX Mobile, Inc. (“BANM”) Comments at page 2; Personal Communications Industry Association (“PCIA”) Comments at page 16; PrimeCo Personal Communications L.P. (“PrimeCo”) Comments at pages 9-10; ALLTEL Mobile Communications, Inc. (“ALLTEL”) Comments at page 3; AirTouch Communications, Inc. (“AirTouch”) Comments at page 6; AT&T Wireless Services, Inc. (“AT&T”) Comments at pages 2-3; and Omnipoint Comments at page 9.

⁵ See, for example, CTIA Comments generally, as well as GTE Comments at page 5; Pocket Comments at page 2; Sprint Comments at page 6; PCIA Comments at page 9; PrimeCo Comments at pages 11-12; ALLTEL Comments at page 4; AT&T Comments at pages 2-3; AirTouch Comments at page 9; Omnipoint Comments at page 7; and BellSouth Comments at pages 8-9; in a slight variation, BellSouth proposes that WCS licenses be awarded “in four blocks of 6 MHz spectrum and two blocks of 3 MHz spectrum, all of which would be paired.”

⁶ See, for example, CTIA Comments generally, as well as GTE Comments at pages 7-8; BellSouth Comments at pages 13-14; PCIA Comments at page 19; AirTouch Comments at page 9; and Omnipoint Comments at pages 8-9.

⁷ See, for example, CTIA Comments generally, as well as GTE Comments at page 7; Pocket Comments at page 4; BellSouth Comments at pages 11-12; BANM Comments at pages 11-12; PCIA Comments at page 11; and Omnipoint Comments at page 7.

⁸ See, for example, CTIA Comments generally, as well as GTE Comments at page 2, page 7 and page 9; Sprint Comments at page 9; BellSouth Comments at pages 12-13; BANM Comments at page 2 and pages 11-12; PrimeCo Comments at page 11; AirTouch Comments at pages 6-7; and Omnipoint Comments at page 7 and page 10.

jeopardy to, the emerging CMRS industry, including the personal communications services (“PCS”) spectrum auctions yet to be completed.⁹

I. WCS SPECTRUM SHOULD BE ASSIGNED ON EITHER THE CURRENT BASIC TRADING AREA (BTA) OR MAJOR TRADING AREA (MTA) SYSTEM AND IN 5 MHZ OR 10 MHZ BANDS

The fact that nationwide licenses of larger spectrum blocks might prove quicker to accomplish and simpler to administer should not be permitted to undercut public interest concerns in this proceeding. Along with many commenters,¹⁰ SNET Mobility strongly opposes allocation of WCS spectrum in one or more nationwide licenses. Such a licensing scheme would inevitably restrict participation to a few “deep pockets,” undermining the Commission’s statutorily mandated goal to maximize licensing opportunities in allocating this new spectrum.

SNET Mobility agrees with the many comments filed in this proceeding that the most efficient and effective support for Congress and the Commission’s stated goals of promoting competition in the telecommunications marketplace will not be found in allocating WCS spectrum to one or more nationwide licenses, but in limiting the geographic scope of WCS licensed service areas to the currently established Basic Trade Area (“BTA”) system. In the alternative, service areas no larger than the Major Trading Area (“MTA”) should be utilized. Experience already gained in auctioning broadband PCS spectrum, in obtaining financing for and constructing broadband PCS networks, and in beginning to offer commercial broadband PCS services has shown that BTAs (and/or MTAs) provide sufficiently large service areas to permit flexible system

⁹ See, for example, CTIA Comments generally, as well as Sprint Comments at pages 8-10; PCIA Comments at pages 6-8; PrimeCo Comments at pages 4-9; AirTouch Comments at page 5 and page 7; and Omnipoint Comments at page 5.

¹⁰ For example, all of the parties named in footnotes 3 and 4 above.

design, maximum population coverage and efficient economies of scale while minimizing the anti-competitive impact of national licensing proposals.

For the same reasons that BTAs or MTAs are preferable to national or regional licenses, SNET Mobility believes that smaller spectrum blocks also reflect a more efficient use of WCS spectrum. Allocation of several 5 or 10 MHz WCS spectrum blocks would tend to encourage broader participation by small businesses as well as innovative and flexible service offerings, while diminishing potential problems with spectrum warehousing.

II. WCS LICENSE ELIGIBILITY REQUIREMENTS SHOULD BE BROAD; FLEXIBLE PARTITIONING, AGGREGATION AND FRANCHISING SHOULD BE PERMITTED BUT THE CURRENT CMRS SPECTRUM CAP MUST APPLY AND REGULATORY PARITY MUST BE SAFEGUARDED

Subject to the current 45 MHz CMRS spectrum cap and consistent application of the principle of regulatory parity, SNET Mobility joins those commenters who support the maximum flexible use of WCS spectrum, including spectrum aggregation/disaggregation and licensing partitioning proposals. SNET Mobility also supports “franchising” of WCS spectrum, but believes that the principle of regulatory parity requires the same flexibility be permitted to current CMRS licensees. With respect to proposed “franchises” of WCS licenses, SNET Mobility agrees with BellSouth that “A carrier that has 45 MHz of attributable spectrum should not be permitted to evade the spectrum cap by ‘leasing’ additional spectrum that it is not otherwise permitted to use”¹¹ and joins BellSouth’s request that the Commission clarify the treatment of “franchising” with respect to the current CMRS spectrum cap.

¹¹ See BellSouth Comments at page 11.

SNET Mobility agrees with numerous other commenters that the Commission is required by the terms of the Communications Act to ensure that like services are regulated in a like manner and, accordingly, that like performance requirements should be applied to like services licensed in the WCS spectrum block. Thus, the build-out requirements applicable to broadband PCS ought to be applied to WCS spectrum used for CMRS operations, and where WCS spectrum is licensed for the provision of commercial mobile radio services, all other regulatory requirements currently applicable to cellular, broadband PCS and enhanced specialized mobile radio (“ESMR”) providers ought also to apply, including, without limitation, requirements for the accommodation of roamers, resale rules, and E911 service requirements.

SNET Mobility strongly disagrees with AT&T’s position that “given the status of competition in the CMRS industry, there is no reason to count use of WCS spectrum for CMRS against the CMRS spectrum cap”¹² and suggests such reasoning on the part of the nation’s largest wireless carrier and subsidiary of the nation’s largest long distance carrier to be suspiciously self-serving. If WCS spectrum utilized to provide CMRS operations were not attributable under the existing CMRS spectrum cap regulations, the largest CMRS providers would likely become still larger, making it difficult for any but the very largest providers to compete.

Rather, SNET Mobility agrees with Pocket that “Section 309(j)(3)(B) requires that the Commission seek to avoid excessive concentration of licenses.”¹³ SNET Mobility believes it is *imperative* that the Commission preserve the CMRS spectrum cap with respect to WCS spectrum licensed to provide any commercial mobile radio services.

¹² See AT&T Comments at page 7.

¹³ See Pocket Comments at page 4.

III. WCS SPECTRUM AUCTIONS SHOULD BE DELAYED UNTIL PCS BLOCK D, E AND F SPECTRUM AUCTIONS HAVE BEEN COMPLETED

The last several years have seen significant competitive developments in the CMRS industry, with as many as eight or nine licensees operating or preparing to operate in any given geographic area.¹⁴ Given those developments, there is a reasonable basis for the concern that WCS spectrum allocation and licensing proposals not be permitted to detrimentally impact the availability of operating capital and push the CMRS industry toward spectrum saturation.¹⁵

SNET Mobility agrees with CTIA and other commenters who urge the Commission to enact rules and procedures for the WCS spectrum auctions and licensing that ensure that the implementation of new WCS services does not disadvantage current CMRS licensees and potential licensees by devaluing CMRS spectrum already licensed or still to be auctioned. WCS spectrum allocation must be timed and structured in a manner that does not discourage capital investment in CMRS licenses, retard the offering of new CMRS services already on the way to market, or generally adversely impact developing CMRS competition. Toward that end, SNET Mobility urges the Commission to implement CTIA's specific proposal that WCS auctions be delayed until the PCS D, E and F block auctions have been completed.

¹⁴ Almost every market already has two cellular licensees, with up to six PCS licensees currently building systems, already offering service or preparing to bid on and secure broadband PCS licenses; in addition, in many markets an ESMR operator is already providing or on the point of providing mobile communications services as well.


¹⁵ See PCIA Comments at pages 6-7, especially footnotes 8 and 9 thereto.

CONCLUSION

For the foregoing reasons, SNET Mobility respectfully requests that the Commission allocate WCS spectrum on a BTA or MTA basis, in spectrum blocks of 5 MHz or 10 MHz, establish broad license eligibility criteria subject to the principle of regulatory parity and application of the existing 45 MHz CMRS spectrum cap, and establish WCS spectrum allocation rules and procedures that safeguard the standard of competitive neutrality with existing CMRS services.

Respectfully submitted,

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December 16, 1996

CERTIFICATE OF SERVICE

I, Ursula DeMartino, do hereby certify that a copy of the foregoing **Reply Comments of Springwich Cellular Limited Partnership, SNET Cellular, Inc., and SNET Mobility, Inc.** in GN Docket No. 96-228 was mailed on this 13th day of December, via First Class U.S. mail, to each of the following:

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